



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 25-21 – Auctioneers Board Regulations
Department of Professional and Occupational Regulation
November 5, 2010

Summary of the Proposed Amendments to Regulation

The Auctioneers Board (Board) proposes to amend its regulations to 1) allow licensees to use continuing education hours gained in other, reciprocating states to meet continuing education requirements in Virginia and 2) allow the Board to delay services for, or withhold services from, licensees who fail to pay monies previously owed to the Board. The board also proposes to make a number of clarifying changes to the regulatory text.

Result of Analysis

The benefits likely exceed the costs for most proposed changes. For one proposed change, costs may outweigh benefits.

Estimated Economic Impact

Most of the changes that the Board proposes for these regulations are meant to clarify parts of the regulatory text. For instance, current regulatory text says that the Department of Professional and Occupational Regulation (DPOR) mails out renewal notices to licensees when it is actually Board staff that is responsible for this task. The Board proposes to change the regulatory text so that it is clear that the Board will mail out renewal notices. No affected entity is likely to incur any costs on account of changes such as these. To the extent that some regulated entities may find the current regulatory text confusing, these changes will provide the benefit of additional clarity.

Current regulations do not allow individuals who are licensed in Virginia and in another state to count continuing education classes that they may have taken in that other state to count toward Board renewal requirements. The Board proposes to allow licensees to do this so long as

the state where the continuing education is completed has a reciprocal agreement with Virginia that allows the same thing. No entity is likely to incur additional costs on account of this regulatory change. Licensees who are licensed in several states will likely benefit from rules that allow them to eliminate the time and expense of duplicating continuing education classes in each of the states in which they are licensed.

Current regulations are silent on whether the Board has discretion to deny renewal of licensure. The Board proposes to add language to these regulations that would allow denial of renewal for any of the same reasons that it can deny initial licensure or discipline licensees. The Board also proposes to add language to these regulations that would allow delay or denial of “services provided by the department [DPOR] such as, but not limited to, renewal, reinstatement, processing of a new application or exam administration” if the person requesting services has failed to pay monies owed to the Board on account of a consent order or final order.

When the Board denies renewal for an individual who has been disciplined, that individual incurs costs that may include money and time spent trying to challenge the Board’s decision and will likely include any income differential between the job done with the license and any alternate, presumably lesser paying, employment in which the previously licensed individual might engage. These costs are likely outweighed by benefits that are likely to accrue to the public because they are being protected from shady or incompetent auctioneers.

The other proposed language, however, is worded so broadly that the costs accrued may very well outweigh any benefits that the Board might get from being able to more easily recover monies owed to it. Licensees, for instance may be coerced, under the proposed new rules, into paying some fines and fees that could still be challenged and might not end up being owed at all. The proposed regulatory language would also seem to allow the Board to deny any services at all, rather than just services related to licensure. For instance, under the proposed language, the Board could refuse to accept a complaint about a licensee from someone who owes the Board money or could accept the complaint but just delay any action on it. To the extent that Board investigations protect the public from harm, such actions would certainly have costs attached that could be avoided if the proposed language were written more narrowly.

Businesses and Entities Affected

DPOR reports that there are 1,443 individual auctioneers and 241 auctioneer firms currently licensed by the Board. All of these entities will be affected by these regulatory changes.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property

This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

To the extent that small businesses might be denied renewal under new provisions in these proposed regulations, they may incur costs associated with no longer being able to work as auctioneers.

Small Businesses: Alternative Method that Minimizes Adverse Impact

Cost for small businesses would likely be minimized if the Board rewrote the provisions for denial of renewal so that their application was narrower. For instance, the Board could choose to leave out the phrase “but not limited to” so that the proposed regulatory language includes all the services that may be denied or delayed.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities

to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.